

Hon. Brian D. Lynch  
In Proceedings Under  
Chapter 11

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON

In re:

Stephen Robert Brown,  
Debtor.

Case No: 22-40997-BDL

EX PARTE MOTION FOR ORDER  
AUTHORIZING EMPLOYMENT OF  
SPECIAL COUNSEL

TO: The Honorable Brian D. Lynch  
AND TO: Jason Wilson-Aguilar, Trustee;

This application of Stephen Robert Brown, (hereinafter "Debtor") respectfully alleges  
as follows:

1. The applicant is the debtor by and through the attorney of record, Mark C. McClure;
2. The Debtor, in pursuit of a potential legal malpractice claim that is property of the estate, requests appointment of attorney, Brian J. Waid, of WAID LAW OFFICE, pursuant to 11 U.S.C. 327(e) as special counsel, to perform the following duties:
  - a. To advise and consult regarding collection, settlement, or suit for damages owing to Debtor resulting from a potential malpractice claim related to Pierce County Superior Court Case No. 20-2-06886-7;
  - b. To investigate;
  - c. To prepare complaint and all other supporting pleadings;
  - d. To incur reasonable costs associated with the pursuit of the claim; and
  - e. To negotiate and litigate if necessary.

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3 3. Brian J. Waid is a member in good standing of the Washington State Bar  
4 Association, WSBA 26038, and admitted to practice before the United States District Court  
5 for the Western District of Washington and the Court of Appeals for the Ninth Circuit.

6 4. Debtor schedule a malpractice claim against his counsel of record in Pierce  
7 County Superior Court Case No. 20-2-06886-7 and the attorney's firm.

8 5. For the foregoing and all other necessary and proper purposes, the applicant  
9 desires to retain Brian J. Waid, Attorney at Law.

10 6. Brian J. Waid will not take any fee, without the prior approval of a fee  
11 application or an application for fees to be paid in the ordinary course of business. Brian J.  
12 Waid may take advance retainers for costs, trial, contested matters, or appeals into his  
13 IOLTA/trust account upon further approval by the Bankruptcy Court. Under Washington law,  
14 the funds in the trust account remain the property of the client. No funds will be paid from  
15 trust without a court order.

16 property of the estate.

17 7. Brian J. Waid understands that no material action, including but not limited to  
18 any settlement, may occur without the Court's supervisory authority.

19 8. Brian J. Waid understands that the ultimate fee that he may be awarded,  
20 regardless of the rate of compensation approved on this motion, at the conclusion of his  
21 service, is subject to the Court's approval pursuant to the limitations as set forth in §§ 328,  
22 330, 504 and otherwise under the U.S. Bankruptcy Code.

23 9. The United States Bankruptcy Code, 11 U.S.C. § et.seq, the Federal Rules of  
Bankruptcy Procedure, or local rules of practice shall control over any contradictory terms in  
the retainer agreement. Specifically, in the event of voluntary or involuntary dismissal, no  
funds shall be disbursed from trust without prior approval of the court.

#### **Disinterestedness**

10. Brian J. Waid is a disinterested person as that term is defined in 11 U.S.C. §  
101(14). Prior to the debtor retaining Brian J. Waid's services for the investigation,  
preparation and prosecution of a legal malpractice claim, Brian Waid had no business or  
personal association with the debtors. Brian J. Waid does not hold any interests materially  
adverse to those of the debtors, the estate, or any class of creditors. Brian J. Waid is not a

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creditor, equity security holder, or insider of the debtor and does not hold a security interest in property of the estate.

WHEREFORE, For the foregoing reasons the Debtors move this court for an order allowing the employment of Brian J. Waid as counsel for a legal malpractice claim that is property of the estate.

DATED September 13, 2022.

Respectfully Submitted,  
Law Office of Mark McClure, P.S.

/s/ Mark C. McClure

Mark C. McClure, WSBA #24393  
Attorney for Stephen Robert Brown, Debtor

9/14/2022

Approved by:

DocuSigned by:

Stephen Robert Brown

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Stephen Robert Brown, Debtor

EX PARTE APPLICATION TO APPOINT -- 3

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